

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 05-80955
HON AVERN COHN

D-16, DERRICK PEGUESE, Jr.,

Defendant.

ORDER DENYING MOTION UNDER 28 U.S.C. § 2250 (Doc. No. 1298)

I.

This is a criminal case. On July 9, 2007, defendant pled guilty to conspiracy to distribute five (5) kilograms or more of cocaine, in violation of 21 U.S.C. §§ 846, 841 and conspiracy launder monetary instruments, in violation of 18 U.S.C. § 1956. Defendant was sentenced to 120 months imprisonment on April 18, 2008. Defendant did not file a direct appeal.

Before the Court is defendant's motion under 28 U.S.C. § 2250 in which he requests copies of various court documents and transcripts in order to pursue a § 2255 motion. For the reasons that follow, the motion will be denied.

II.

28 U.S.C. § 2250 provides:

If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as

may be required by order of the judge before whom the application is pending. 28 U.S.C. § 2250. By the plain language of the statute, in order to be entitled to request documents under this section, defendant must have a § 2255 application pending. See United States v. Connors, 904 F.2d 535, 536 (9th Cir. 1990); Walker v. United States, 424 F.2d 278, 279 (5th Cir. 1970); Corrigan v. Thomas, 55 F.App'x 754, 756 (6th Cir. 2003).

Because defendant has not yet filed a § 2255 motion, § 2250 does not apply. Moreover, even if a § 2255 motion were pending, any subsequent motion for court documents would have to include a showing of need. A broad, unspecific contention that documents are needed in order to prepare a § 2255 motion is insufficient to constitute a showing of need.

III.

Accordingly, for the reasons stated above, defendant's motion is DENIED.

SO ORDERED.

Dated: March 29, 2010

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Derrick Peguese, 32452-044, Federal Satellite Low Elkton, P.O. Box 10, Lisbon, OH 44432 and the attorneys of record on this date, March 29, 2010, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160

